

Serial No.: 10/688,224
Examiner: Laura A. Bouchelle
Group Art Unit: 3763

REMARKS

Status of Claims

Claims 3-7, 13, 15-30, and 32-33 are presently pending. Claims 9-11 are cancelled herein. Claims 1-2, 8, 12, 14, and 31 were previously cancelled by Applicant. Claims 13 and 18-28 were previously withdrawn from consideration as belonging to a non-elected species.

Objection to Claims 9-11

Claims 9-11 are objected to as being dependent upon cancelled claim 8. Claims 9-11 are cancelled herein, rendering this objection moot.

Rejection Under 35 U.S.C. 112, Second Paragraph

Claims 9-11 are rejected under 35 U.S.C. 112, second paragraph, because there is no antecedent basis for the limitation "the substrate". Claims 9-11 are cancelled herein, rendering this rejection moot.

Rejection Under 35 U.S.C. 102(b)

The Examiner rejected claims 3-7, 15-17, 29-30, and 32-33 as being anticipated by U.S. Pat. No. 5,562,652 (Davis).

In response, Applicants respectfully traverse the rejection and its accompanying remarks. Davis does not teach the invention of the claims. For a reference to anticipate a claim it must disclose each and every element of the claim. See MPEP 2131 and cases cited therein, particularly *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) and *In re Marshall*, 578 F.2d 301, 304, 198 USPQ 344, 346 (Fed. Cir. 1978). The Davis reference fails as an anticipatory reference because it fails to teach all of the claimed elements of the present invention.

For example, independent claims 3 and 7 (and thus claims 4-6, 29, 30 and 33 depending therefrom) require at least one active lumen that at least partially surrounds the false lumen. This feature is neither taught nor suggested by Davis. Actually, in Davis, it is the closed reservoir 42 containing the water-activated antiseptic agent (which the Examiner is construing as a false lumen) that at least partially surrounds the central lumen 14 (which the Examiner is construing as

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an active lumen). The inflation passageway 24 (which the Examiner is also construing as an active lumen), if anything, partially surrounds the central lumen 14, as opposed to the closed reservoir 42.

On the other hand, independent claims 15 and 17 (and thus claims 16 and 32 depending therefrom) each requires a substrate comprised of an anti-microbial agent and having first and second ends, which substrate is capable of being inserted into the false lumen. This feature is neither taught nor suggested by Davis. The closed reservoir 42 of Davis (which the Examiner is construing as a false lumen) is not adapted to receive an anti-microbial-agent containing substrate via insertion, for instance, because there is no opening that leads to the closed reservoir 42, through which a substrate might be inserted.


For at least the above reasons, withdrawal of the rejection of the claims under 35 U.S.C. 102(b) is requested.

CONCLUSION

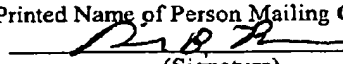
Applicant respectfully submits that all pending claims are in condition for allowance, early notification of which is earnestly solicited. Should the Examiner be of the view that an interview would expedite the application at large, request is made that the Examiner telephone the undersigned attorney at (703) 433-0510 in order to resolve any outstanding issues. The Office is authorized to charge any fees required, to deposit account number 50-1047.

Attorney for Applicant
Mayer & Williams, PC
251 North Avenue West, 2nd Floor
Westfield, NJ 07090
Tel.: 703-433-0510
Fax: 703-433-2362

Respectfully submitted,


David B. Bonham
Registration No. 34,297

I hereby certify that this document and any document referenced herein are being sent to the United States Patent and Trademark office via Facsimile to: 571-273-8300 on 11/17/2008.

David B. Bonham
(Printed Name of Person Mailing Correspondence)

(Signature)